

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS ASENCCIO,

Plaintiff,

v.

PROBATION OFFICER JOSE MEDINA
AND PROBATION OFFICER GARRETT
HALL,

Defendants.

18-Cv-97 (SHS)

OPINION & ORDER

SIDNEY H. STEIN, U.S. District Judge.

The Court has received defendants' motion to preclude plaintiff's treating physician, Dr. Jason Baynes, from testifying at trial regarding his Initial Evaluation Addendum, (Defendants' Letter Memorandum, Ex. A, ECF No. 109.) The one-paragraph Addendum sets forth the doctor's opinions that the permanency of plaintiff's disability as well as certain surgeries and therapy "will cost in my estimation greater than \$500,000. *Id.*

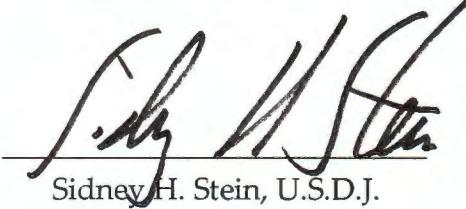
As an initial matter, Dr. Baynes, as a treating physician, is not subject to the reporting requirements of Fed. R. Civ. P. 26(a)(2)(B). *See Zanowic v. Ashcroft*, No. 97-cv-5292, 2002 WL 373229, at *2 (S.D.N.Y. Mar. 8, 2002). However, Dr. Baynes "must demonstrate 'a scientifically reliable method to support [his] conclusions' regarding plaintiff's future medical expenses. *Romanelli v. Long Island R. Co.*, 898 F. Supp. 2d 626, 631 (S.D.N.Y. 2012). Although treating physicians are not required to furnish written reports to support their expert testimony, they must nevertheless provide "the proper foundation" for opinions such as those on the costs of future medical treatment. *See, e.g., Gibson v. CSX Transp., Inc.*, No. 1:07-cv-156, 2008 WL 11355393, at *4 (N.D.N.Y. Nov. 3. 2008).

Here, the Addendum does not provide a basis for Dr. Baynes's "estimation" that plaintiff's future medical treatment will cost "greater than \$500,000." Therefore, defendant's motion to preclude Dr. Baynes's Initial Evaluation Addendum is denied on condition that plaintiff disclose the foundation underlying his opinions that are set forth in that document. *See Romanelli*, 898 F. Supp. 2d at 631; *Gibson*, 2008 WL 11355393, at *4.

Dated: New York, New York

June 15, 2022

SO ORDERED:



Sidney H. Stein, U.S.D.J.